

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	21-CR-379 (VSB)
-against-	:	
	:	<b><u>ORDER</u></b>
CARLOS ORENSE AZOCAR	:	
	:	
Defendant.	:	
-----	:	
	X	


VERNON S. BRODERICK, United States District Judge:

I am in receipt of an email from Matthew Russell Lee of Inner City Press requesting that I unseal the financial affidavit and information of Defendant, Carlos Orense Azocar, dated June 27, 2022. Accordingly, it is hereby:

ORDERED that the parties respond to the request, attached herewith, on or before July 7, 2022.

SO ORDERED.

Dated: July 5, 2022  
New York, New York

  
Vernon S. Broderick  
United States District Judge



# Inner City Press

June 27, 2022

By E-mail to chambers

Hon. Vernon S. Broderick, United States District Judge  
Southern District of New York, 40 Foley Square, New York, NY 10007

Re: Press request to unseal the financial affidavit and information of Carlos Orense Azocar, charged with narco-trafficking, US v. Azocar, 21-cr-379 (VSB)

Dear Judge Broderick:

On behalf of Inner City Press and in my personal capacity, I have been covering the above-captioned case and related cases, regarding narco-trafficking in Venezuela and elsewhere.

This concerns last week's Magistrates Court proceeding in which Carlos Orense Azocar was appointed (publicly-paid) counsel, based on a financial affidavit that you reviewed and on which you made a judicial determination (of appointing counsel). This defendant is reported to have substantial resources.

Given that the financial affidavits of SDNY defendants Michael Avenatti and (former) Doctor Cruciani have been ordered unsealed, by District Judges Furman and Cronan respectively, and most recently that of narco trafficking defendant Juan Carlos Bonilla Valladares by Magistrate Judge Katharine H. Parker in response to a similar Inner City Press request, this is a request that the information of be unsealed. See 20-mj-4462, Docket Number 7 (May 12, 2022)

""Juan Carlos Bonilla Valladares ("Defendant") was arrested on a Complaint issued from this District and presented before me on May 11, 2022. At the proceeding, I reviewed a Financial Affidavit submitted by the Defendant that purported to describe the Defendant's financial circumstances. (ECF No. 4.) Based on the Financial Affidavit, I determined that the Defendant qualified for court-appointed counsel pursuant to the Criminal Justice Act ("CJA"), 18 U.S. Code § 3006A. (ECF No. 5.) The Financial Affidavit was filed under seal. On May 11, 2022, Matthew Russell Lee ("Lee"), a reporter with Inner City Press, filed a letter intervening on behalf of the public and requesting that the Financial Affidavit be unsealed. (ECF No. 6.) FN: As a public journalist, Lee has standing to intervene in this matter and assert the public's First Amendment right to access judicial documents. Id. at 44, n.2; see also United States v. Aref, 533 F.3d 72, 81 (2d Cir.

Inner City Press: In-house SDNY: Room 480, 500 Pearl Street, NY NY 10007  
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2008) (holding that a motion to intervene to assert the public's First Amendment right of access to criminal proceedings is proper). Lee argued that the First Amendment to the United States Constitution guarantees the public a right to access judicial documents such as the Financial Affidavit, and that unsealing the Financial Affidavit is consistent with precedent in this Circuit. On May 12, 2022, I ordered the Defendant and the Government to file any responses to Lee's request by May 20, 2022. Neither party filed a response. For the reasons that follow, I find that the Financial Affidavit should be unsealed.

**DISCUSSION** The First Amendment provides the public with a qualified right to access a wide variety of judicial documents filed in connection with criminal proceedings. *United States v. Avenatti*, 550 F. Supp. 3d 36, 44 (S.D.N.Y. 2021) (collecting cases).<sup>1</sup> That right applies to financial affidavits such as the one at issue. *Id.* at 46 (finding that there is a "qualified First Amendment right of access to [a] Financial Affidavit[]" submitted to assist the court in determining whether a defendant is eligible for court-appointed counsel); see also *United States v. Suarez*, 880 F.2d 626, 629 (2d Cir. 1989) (finding that there is a First Amendment right to access "CJA forms on which judicial officers have approved payments to attorneys"). Where, as here, the "First Amendment framework applies, continued sealing of the document[] may be justified only with specific, on-the-record findings that sealing is necessary to preserve higher values and only if the sealing order is narrowly tailored to achieve that aim." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). As there are no "on-the-record findings that sealing is necessary," and insofar as no objections to unsealing have been made, continued sealing of the Financial Affidavit is not appropriate. *Id.*; see also *Avenatti*, 550 F. Supp. 3d at 46 (granting request to unseal defendant's financial affidavit).

**CONCLUSION** For the reasons set forth above, Lee's request to unseal the Financial Affidavit (ECF No. 6) is GRANTED. The clerk of the court is directed to unseal the document at issue (ECF No. 4)."

The same should happen here, forthwith.

If necessary: Inner City Press and I oppose the sealing, as we have in other SDNY cases. See, e.g., NY Law Journal, July 27, 2021, "Judge Orders Release of Michael Avenatti's Financial Affidavits In Stormy Daniels Theft Case," "Journalist Matthew Russell Lee of Inner City Press had intervened, advocating for the affidavits' release," <https://www.law.com/newyorklawjournal/2021/07/27/judge->



orders-release-of-michael-avenattis-financial-affidavits-in-stormy-daniels-theft-case/

This is a Press request that the filings be unsealed consistent with *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006) and other applicable case law. This is a request that this opposition to sealing be docketed as, for example, took place in *US v. Avenatti*, 19-cr-374 (JMF), Dkt 85, see <https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf>. See also, *US v. Cruciani*, 21-cr-636 (JPC), Dkt No. 40 (Inner City Press request) and 41 (ruling to unseal).

The First Amendment to the U.S. Constitution guarantees to the public a right of access to court proceedings. U.S. CONST. AMEND. I; *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 603 (1982). The public's right of access is strongest when it comes to criminal proceedings such as these, which are matters of the "high[est] concern and importance to the people." *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575 (1980) (plurality opinion).

If deemed necessary, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Vernon S. Broderick, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to the heard on unsealing the defendant's submissions in this case.

Non-parties such as Inner City Press and myself have standing to intervene in criminal proceedings to assert the public's right of access. *United States v. Aref*, 533 F.3d 72, 81 (2d Cir. 2008).

Please confirm receipt and docket this filing - or, in the alternative, add me as a filer to the case.

After submitting this request by email to Magistrate Judge Valerie Figueredo's Chambers on June 23, it was requested to be filed on ECF:

"From: Figueredo NYSD Chambers

Date: Fri, Jun 24, 2022 at 8:54 AM

Subject: RE: Press request to unseal the financial affidavit and information of Carlos Orense Azocar, charged with narco-trafficking, *US v. Azocar*, 21-cr-379

To: Matthew R. Lee

Mr. Lee,



Please file your request through ECF for United States v. Azocar, 21-cr-379.

Thanks.

Chambers of the Hon. Valerie Figueredo  
U.S. District Court for the Southern District of New York"

After taking several steps, I stand ready to file it as a letter or motion on ECF. But as requested earlier this afternoon to the Magistrate Judge, I would need to be added as a filer to the case, in order to file it myself. If any further information is needed, please contact the undersigned at matthew.lee@innercitypress.com or 718-716-3540.

Respectfully submitted,

Matthew Russell Lee, Inner City Press

cc: Jason Errol Foy (jfoy@foyseplowitz.com); AUSA Wirshba